

REMARKS

This request for withdrawal of the restriction requirement under 37 C.F.R. 1.143 is in response to a restriction requirement and election of species requirement mailed February 12, 2003.

1. Summary of the Restriction Requirement

35 claims are pending in Applicant's patent application. In this restriction requirement, the Examiner restricted (I) a semi flexible tubing of FIG. 3 from (II) a coiled tubing of FIG. 27. In addition, the Examiner restricted (1) a percussion primer end fitting, (2) a LE end fitting, (3) a standard HE end fitting and (4) a separation HE end fitting. The Examiner required that Applicant choose from groups (I) and (II) above in addition to electing a first and a second end fitting from (1) - (4) above.

2. Provisional election

Applicant provisionally elects group (I), the semi flexible tubing connecting a percussion primer to a standard HE end fitting with traverse.

3. Applicant's characterization of claims

In the restriction requirement mailed February 12, 2003, the Examiner required that Applicant furnish the Examiner what specie each claim is drawn to. Applicant has the following comments. Contrary to the Examiner's assertion in the restriction requirement mailed on February 12, 2003, Applicant submits that claims 1-5, 8-10, 23-26, 29-30 and 33-35 are generic to all species.

Claim 11 is drawn to the elected species and all other species where a percussion primer is not one of the two end fittings. Claim 28 is drawn to the elected species and to any other species where at least one of the two end fittings is an HE end fitting. Thus, claims 1-5, 8-11, 23-26, 28-30 and 33-35 pertain to the elected specie and many of these claims are also generic.

4. Traversal of the Restriction Requirement

A. The Examiner failed to comply with MPEP 808.02

Applicant traverses the restriction requirement and the election of species requirement for the following reasons. MPEP 808.02 mandates that the Examiner show, by appropriate explanation, one of the following, (A) separate classification of the species, (B) separate status in the art when they are classifiable together, or (C) a different field of search for the species. It is noted in the restriction of February 12, 2003, the Examiner failed to show any of (A)-(C). Therefore, the restriction requirement must be withdrawn.

B. The Examiner failed to comply with 37 C.F.R. 1.146

37 C.F.R 1.146 states “if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.” In the instant case, the Examiner restricted Applicant’s invention between a semi flexible transfer line and a coil transfer line, and then restricted a PP-LE, PP-HE, PP-separation fitting, LE to HE, LE-LE, HE-HE, LE-separation fitting, HE-separation fitting from each other and also restricted all of the variations of

transfer manifolds. This results in at least 16 species. Applicant submits that this is not a reasonable number of species as mandated by 37 C.F.R. 1.146. Thus the restriction requirement of February 12, 2003 must be withdrawn.

C. 37 C.F.R. 1.141

It is further noted that 37 C.F.R. 1.141 (a) allows more than one specie to be claimed in a single patent application. Therefore, it is not necessary for the Examiner to restrict Applicant's invention into more than 16 separate patent applications.

D. No undue burden on Examiner to examine all 35 claims at once

Applicant's invention as filed has 5 independent claims 1, 12, 19, 23 and 33. Applicant submits that 3 of these 5 independent claims, claims 1, 23 and 33 are generic. Because 3 out of 5 of Applicant's independent claims are generic, Applicant submits that the field of search for all 35 of Applicant's claims falls within and is coextensive with the search for generic independent claims 1, 23 and 33. Therefore, Applicant submits that there is no undue burden on the Examiner to examine all 35 claims on the merits in a single examination.

5. Conclusion

Because of the failure of the Examiner to provide information as mandated by MPEP 808.02, because of the Examiner's desire to restrict Applicant's invention into an unreasonable number of species and thus an unreasonable number of patent applications and because, contrary to the

Examiner's assertion, of the existence of numerous generic claims, Applicant respectfully requests the withdrawal of the restriction requirement of February 12, 2003.

If there are any questions, the Examiner is invited to telephone the undersigned attorney at the below listed local telephone number.

Respectfully submitted,



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